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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,930	11/18/2003	Kazunari Kanbe	033697-007	3038
21839	7590	03/08/2006	EXAMINER	
BUCHANAN INGERSOLL PC (INCLUDING BURNS, DOANE, SWECKER & MATHIS) POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			JOHNSON, VICKY A	
			ART UNIT	PAPER NUMBER
			3682	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/714,930

Applicant(s)

KANBE ET AL.

Examiner

Vicky A. Johnson

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings were received on December 12, 2005. These drawings are approved.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 10 recites the limitation "said braking direction" in lines 7 and 8.

There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7, 9-16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art.

Applicant's prior art disclose a pedal arm (120) pivoted when stepped on for transmitting the stepping-on force; and a pedal pad (130) mounted on an end upper

Art Unit: 3682

portion of said pedal arm for being stepped on the driver's foot; said pedal pad including a pedal pad upper portion (see Fig 12) and a pedal pad side portion (132); said pedal arm including an arm end portion (121) for mounting said pedal pad and an arm body (see Fig 7); and said arm end portion having a pad mounting upper portion (122) for mounting said pedal pad, a pad mounting side portion (123) extending laterally with respect to the pad mounting upper portion for mounting said pedal pad side portion by a coupling (132b), and a protruding portion (40) provided at said pad mounting side portion under the end portion of said pedal pad side portion and laterally protruding to have almost the same height as the thickness of said pedal pad side portion (see Fig 11).

Applicant's admitted prior art does not disclose the pad mounting upper portion, the pad mounting side portion, and the protruding portion comprising respective portions of the same piece of material.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the pad mounting upper portion, the pad mounting side portion, and the protruding portion out of the same piece of material, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Re claims 2 and 11, said pedal arm is formed to be a U-letter shape in cross-section (see Fig 11).

Re claims 3-6, 9, 12-15, and 18, even though product by process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. (See MPEP 2113).

Re claims 7 and 16, said pedal pad covers the whole of the right side of said pad mounting upper portion provided at said arm end portion and also covers the circumferential portion of the wrong side of said pad mounting upper portion (see Fig 7).

Re claims 9 and 18, said pedal pad is made of rubber or soft synthetic resin (see Fig 11) and wherein in Insertion Forming technology, said pedal pad is formed bodily on said arm end portion with the same being set in a casting mold.

6. Claims 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Swenson (US 5,609,069).

Applicant's admitted prior art discloses a brake pedal as described above, but does not disclose pedal pad is joined by an adhesive to said pad mounting upper portion of said arm end portion.

Swenson teaches the use of a pedal pad joined by an adhesive to a pad mounting upper portion of an arm end portion (col. 1 lines 30-39).

It would have been obvious to one having ordinary skill in the art to use an adhesive to bond the pedal pad to the arm end portion, since it is well known to use adhesives to bond two parts together.

Response to Arguments

Some further comments regarding the applicant's remarks are deemed appropriate.

The applicant argues that the amendment added to claims 1 and 10 overcome the applicant's admitted prior art because the pieces are formed as one piece, but as stated above, to form in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art.

Applicant's remarks have been accorded due consideration, however, they are not deemed fully persuasive.

Conclusion


7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vicky A. Johnson whose telephone number is (571) 272-7106. The examiner can normally be reached on Monday-Friday (7:00a-3:30p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6217. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Vicky A. Johnson 3/3/06
Primary Examiner
Art Unit 3682



REPLACEMENT SHEET

APPLN. FILING DATE: NOVEMBER 18 2003

TITLE: PEDAL STRUCTURE FOR MOTOR VEHICLES

INVENTOR(S): KAZUNARI KANBE ET AL.

ATTORNEY DOCKET NO: 033697-007

FIG. 2

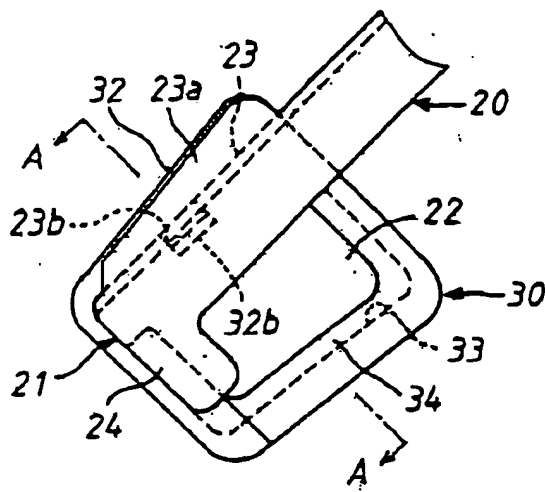


FIG. 3

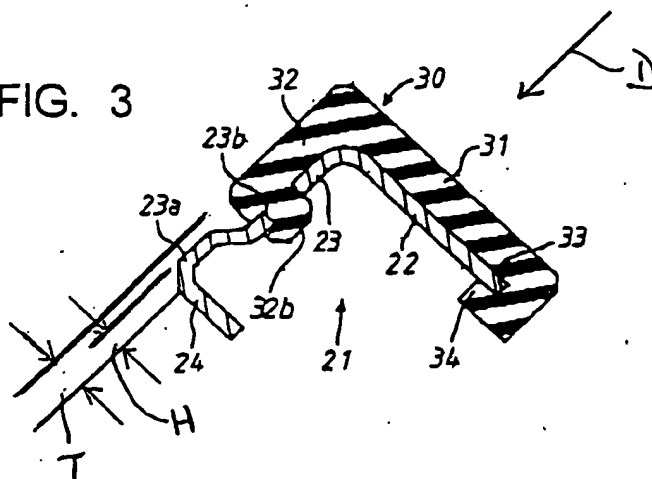


FIG. 4

